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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,410	07/03/2003	Robert P. Bennett	0942.5510003/RWE/FRC	3567

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EXAMINER

HILL, KEVIN KAI

ART UNIT	PAPER NUMBER
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1633

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/612,410	BENNETT, ROBERT P.	
	Examiner	Art Unit	
	Kevin K. Hill, Ph.D.	1633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-156 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-156 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-18, 39-59, 80-103 and 129-135, drawn to an isolated nucleic acid molecule comprising one or more recombinase sites, a host cell, a host cell comprising said isolated nucleic acid molecule and a kit, classified in class 435, subclasses 243 and 320.1.
- II. Claims 19-38, 60-79, 104-128 and 136-138, drawn to a method to produce a polynucleotide product and a host cell containing said polynucleotide product, classified in class 435, subclass 41.
- III. Claims 139-156, drawn to a method to express and detect a fusion protein expressed from a polynucleotide product, classified in class 435, subclass 69.1.

Inventions I-III are distinct because,

Inventions I and II are related as products and processes of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case, Invention I is drawn to vectors comprising one or more recombination sites and/or one or more topoisomerase sites and one or more topoisomerases, host cells and host cells comprising said vectors, respectively; whereas, Invention II is drawn to methods to produce unique product polynucleotides. The Invention II method to create a product polynucleotide

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using recombinase sites may be practiced with a vector that contains both recombination sites and topoisomerase sites, or with a vector that contains only recombination sites or topoisomerase sites, but not both. Furthermore, the Invention I products can be used in materially different process than the Invention II methods. The Invention I nucleic acid molecules may be used to create additional, unique, and materially distinct, vectors through other molecular biology means. For example, the region of the vector, wherein one's nucleotide of interest is suggested to be inserted, may be used as a template upon which to build additional molecular biology features to further regulate expression of one's target molecule, resulting in an entirely different nucleic acid product.

Because these inventions are independent and distinct for the reasons given above and a search for one of the claimed inventions is not likely to result in finding art pertinent to the other inventions, it would be unduly burdensome for the examiner to search and examine all of the subject matter being sought in the presently pending claims, and thus, restriction for examination purposes as indicated is proper.

Inventions I and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, Invention I is drawn to vectors comprising one or more recombination sites and/or one or more topoisomerase sites and one or more topoisomerases, host cells and host cells comprising said vector, respectively; whereas, Invention III is drawn to methods to express and detect unique fusion proteins expressed from unique polynucleotides. The different inventions as claimed are not capable of use together, and are of different material design and effect. Specifically, the Invention I nucleotide vectors are structurally distinct from the unique polynucleotide molecules encoding the Invention III fusion proteins. Specifically, the Invention I vectors lack one's nucleic acid molecule of interest subsequently contained in Invention III unique product polynucleotides. The identity of the first nucleic acid molecule inserted into the respective nucleic acid vectors, and therefore resulting in the Invention III respective polynucleotides, is undisclosed, and as such encompasses a universe of materially distinct possibilities. As a consequence of

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these differences, the fusion proteins obtained by the Invention III methods will be structurally distinct from that encoded by the Invention I vectors.

Because these inventions are independent and distinct for the reasons given above and a search for one of the claimed inventions is not likely to result in finding art pertinent to the other inventions, it would be unduly burdensome for the examiner to search and examine all of the subject matter being sought in the presently pending claims, and thus, restriction for examination purposes as indicated is proper.

Inventions II and III are directed to related processes. The related inventions are distinct if the inventions as claimed do not overlap in scope, i.e., are mutually exclusive; the inventions as claimed are not obvious variants; and the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect. See MPEP § 806.05(j). In the instant case, Invention II is drawn to methods to produce unique polynucleotides; whereas, Invention III is drawn to methods to express and detect unique fusion proteins expressed from unique polynucleotides. The Invention II method inventions to clone one's nucleotide of interest into a given nucleic acid molecule are materially different in design, perform different functions and result in different effects than the Invention III method inventions to express unique fusion proteins. Each invention is mutually exclusive of the other and is directed to a distinct goal, which comprises the use of separate starting materials and method steps in order to achieve its respective and intended objective. For example, the Invention II methods utilize materially distinct nucleotide molecules and materially different enzymes (a topoisomerase and/or a recombinase, for example) to catalyze the cloning reactions, resulting in unique molecules. Furthermore, the unique polynucleotide contained within the Invention III host cell is structurally distinct from the Invention II nucleic acid molecule. Additionally, the host cells of each Invention are disclosed as capable of being prokaryotic or eukaryotic in identity, and therefore they are structurally distinct and non-obvious variants. The host cells are independent and mutually exclusive of each other, in that the Invention III host cell used to express and modify the distinct

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fusion protein does not necessarily require the Invention II host cells used to replicate the polynucleotide in enough quantities for future utility, for example.

Because these inventions are independent and distinct for the reasons given above and a search for one of the claimed inventions is not likely to result in finding art pertinent to the other inventions, it would be unduly burdensome for the examiner to search and examine all of the subject matter being sought in the presently pending claims, and thus, restriction for examination purposes as indicated is proper.

The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder.** Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

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Should Applicant elect Invention I, a group restriction is required. Claim 129 contains an improper Markush Group that is not compliant with *In re Harnisch*, reciting a number of plasmid vectors, and thus form paragraph *M.P.E.P. 8.01 Election of Species* does not apply. In the instant case, each plasmid vector is an independent or distinct molecule, as each has a unique nucleic acid sequence, possesses a different structure, provides for a different method step, yields a different effect and is mutually exclusive of each other vectors. Because these inventions are structurally distinct for reasons given above, and because a search of one does not necessarily overlap with that of another species, it would be unduly burdensome for the examiner to search and examine all the subject matter being sought in the presently pending claims and thus, restriction for examination purposes as indicated.

For each Invention I inventive groups below, restriction to one of the following is also required under 35 USC 121. Therefore, election is required of one of Inventions I and one of inventive groups (a)-(j), regarding a patently distinct nucleic acid molecule, specifically:

- a) pET104-DEST,
- b) pET104/D-TOPO,
- c) pcDNA6/BiotagTM-DEST,
- d) pcDNA6/BiotagTM/D-TOPO,
- e) pMT/BiotagTM-DEST,
- f) pET104/GW/*lacZ*,
- g) pET104/D/*lacZ*,
- h) pcDNA6/BiotagTM-GW/*lacZ*,
- i) pcDNA6/BiotagTM/*lacZ*, or
- j) pMT/BiotagTM/GW-*lacZ*.

Claims 1, 39 and 80 link Invention I, inventive groups (a)-(j).

Each Invention I inventive group is distinct because, each vector is unrelated. The related inventions are distinct if the inventions as claimed do not overlap in scope, i.e.,

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are mutually exclusive; the inventions as claimed are not obvious variants; and the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect. See MPEP § 806.05(j). Each vector backbone contains within unique nucleotide sequences that distinguishes one from the others. Furthermore, Applicants are reminded that nucleic acid sequences encoding different proteins, and the amino acid sequences they encode, are structurally distinct chemical compounds and are unrelated to one another. These sequences are thus deemed to normally constitute independent and distinct inventions within the meaning of 35 U.S.C. 121. Absent evidence to the contrary, each such nucleic acid and amino acid sequence is presumed to represent an independent and distinct invention, subject to a restriction requirement pursuant to 35 U.S.C. 121 and 37 CFR 1.141 et seq.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed nucleic acid molecule for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Failure to elect plasmid vector consonant with Applicant's elected invention may result in a notice of non-responsive amendment.

Should Applicant elect any of Inventions I-II, a species restriction is required under 35 USC 121. Claims 1, 19, 39, 60, 80 and 104 are generic to a plurality of disclosed patentably distinct species comprising nucleic acid molecules containing recombination sites, topoisomerase sites and topoisomerases. Therefore, election is required of one of Inventions I-II and one of invention species (a)-(c) below, regarding a patently distinct nucleic acid molecule consisting of recombinase sites, specifically:

- a) one or more recombination sites,
- b) one or more topoisomerase sites, and one or more topoisomerases, or
- c) one or more recombination sites and one or more topoisomerase sites, and one or more topoisomerases.

In the instant case, each nucleic acid recombinase site is a distinct invention, since each has a unique nucleic acid sequence such that it possesses a different structure that is

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recognized by a distinctly different recombination protein or topoisomerase protein, thus conferring distinctly different properties and effects on the nucleic acid molecule.

Furthermore, each topoisomerase has a distinct amino acid sequence from other topoisomerase and recombinase proteins, and thus possesses a different structure that can lead to different functions and effects. Because these inventions are inherently distinct for reasons given above, and because a search of one species does not necessarily overlap with that of another, it would be unduly burdensome for the examiner to search and examine all the subject matter being sought in the presently pending claims and thus, a species restriction for examination purposes as indicated.

Applicant is required under 35 U.S.C. 121 to elect an isolated nucleic acid molecule consisting of a single disclosed set of recombinase sites for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Failure to elect an isolated nucleic acid molecule consisting of a single set of recombinase sites consonant with Applicant's elected invention may result in a notice of non-responsive amendment.

Should applicant elect any of Inventions I-II and a recombination site species from above, a further species restriction is required. Claims 1-3, 6, 14, 15-19, 28-36, 39, 52, 57-59, 80, 82, 86, 94-96, 101-105, 113-114, 118-121, 126, 130, 132 and 134 are generic to a plurality of disclosed patentably distinct species of recombination site nucleic acid sequences and mutants, variants, and derivatives thereof comprising the first, second, third and fourth recombination sites, specifically:

- a) *attB* sites,
- b) *attP* sites,
- c) *attL* sites,
- d) *attR* sites,
- e) *lox* sites,
- f) *psi* sites,
- g) *dif* sites,
- h) *cer* sites, or

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i) *frt* sites,

In the instant case, each species is a distinct invention, since each has unique nucleic acid sequence such that they possess different structures that are recognized by distinctly different recombination proteins, thus conferring distinctly different properties and effects on the nucleic acid molecule, as described above.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species at each first, second, third and fourth recombination sites for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Failure to elect species consonant with Applicant's elected invention may result in a notice of non-responsive amendment.

Should applicant elect any of Groups I-II and a recombination site species from above and a single disclosed species of recombination site nucleic acid sequences at the first, second, third and fourth recombination sites from above, a further species restriction is required. Claims 19, 36-37, 104, 126-127, 130-135 are generic to a plurality of disclosed patentably distinct species of recombination proteins, specifically:

- a) Cre,
- b) Int,
- c) IHF,
- d) Xis,
- e) Fis,
- f) Hin,
- g) Gin,
- h) Cin,
- i) Tn3 resolvase,
- j) TndX,
- k) XerC, or
- l) XerD.

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In the instant case, each species is a distinct invention because each recombination protein is encoded by a distinct and unrelated nucleic acid sequence, as described above. Furthermore, the Cre recombination protein also has a distinct amino acid sequence, and thus possesses a different structure that can lead to different functions and effects than the Tn3 resolvase, for example.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Failure to elect species consonant with Applicant's elected invention may result in a notice of non-responsive amendment.

Should applicant elect any of Inventions I-II and a topoisomerase site species from above, a further species restriction is required. Claims 39-41, 44, 51-55, 57-61, 69, 73-78, 80-83, 87, 94, 97-99, 101-104, 113, 118-120, 122-124, 126, 129-130, 132-135 are generic to a plurality of disclosed patentably distinct species comprising topoisomerase proteins and their respective recognition sites, specifically:

- a) Type 1,
- b) Type 1B,
- c) Eukaryotic Nuclear Type 1 topoisomerase, or
- d) poxvirus topoisomerase.

In the instant case, each species is a distinct invention, each topoisomerase is encoded by a distinct and unrelated nucleic acid sequence, as described above. Furthermore, each topoisomerase has a distinct amino acid sequence, and thus possesses a different structure that can lead to different functions and effects than the other topoisomerases.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Failure to elect species consonant with Applicant's elected invention may result in a notice of non-responsive amendment.

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Should applicant elect any of Inventions I-II and a topoisomerase site species and a topoisomerase protein species (a)-(d) from above, a species restriction is required. Claims 39-41, 44, 51-61, 73-83, 87, 94, 97-104, 113, 118-120, 122-126, 129-135 are generic to a plurality of disclosed patentably distinct species of poxvirus topoisomerase produced by or isolated from a virus selected from a group, specifically:

- a) vaccinia virus,
- b) Shope fibroma virus,
- c) ORF virus,
- d) fowlpox virus,
- e) molluscum contagiosum virus, or
- f) *Amsacta moorei* entomopoxvirus.

In the instant case, each species is a distinct invention, since they are not disclosed as capable of use together. Furthermore, each viral genome contains a distinct nucleic acid sequence encoding a topoisomerase polypeptide. As such, the topoisomerase from fowlpox virus has a distinct amino acid sequence, and thus possesses a different structure that can lead to different functions and effects than the topoisomerase encoded by the vaccinia virus, for example.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Failure to elect species consonant with Applicant's elected invention may result in a notice of non-responsive amendment.

Should Applicant elect any of Inventions I-II, a further species restriction is also required under 35 USC 121. Claims 130-135 are generic to a plurality of disclosed patentably distinct species comprising components of a kit, and recite a set of nucleic acid molecules, amino acid polypeptides, host cells and support matrices. Therefore, election is required of invention Groups I-II and a specified set of recombinase sites and a specified, patently distinct kit component for each species (a)-(f) below, specifically:

- a) one or more topoisomerases,

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- b) one or more recombination proteins,
- c) one or more vectors,
- d) one or more polypeptides having polymerase activity,
- e) one or more host cells, or
- f) one or more support matrices complexed with avidin or an avidin analog.

The isolated nucleic acids, polypeptides, host cells, and support matrices are materially and structurally different in design, mode of operation and effect. Furthermore, each component is generic to the respective product. For example, the recombination protein may be any one, or combination thereof, of the twelve species required for election above. Furthermore, the vectors could be any one, or a combination thereof, of the ten inventive groups required for election above. Applicants are reminded that nucleic acid sequences and amino acid sequences are structurally distinct chemical compounds and are unrelated to one another. These sequences are thus deemed to normally constitute independent and distinct inventions within the meaning of 35 U.S.C. 121. Because these invention species are inherently distinct for reasons given above, have attained separate classifications in the art, and because a search of one does not necessarily overlap with that of another, it would be unduly burdensome for the examiner to search and examine all the subject matter being sought in the presently pending claims and thus, restriction for examination purposes as indicated.

Applicant is required under 35 U.S.C. 121 to elect a specified set of kit components for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Failure to elect specific kit components consonant with Applicant's elected invention may result in a notice of non-responsive amendment.

Should Applicant elect any of Inventions I-III, a species restriction to one of the following is also required under 35 USC 121. Claims 1, 3, 6-8, 12, 19-20, 22-23, 27, 39, 41, 44-46, 50, 60-61, 63-64, 68, 80, 82-83, 86-89, 93, 104-105, 107-108, 112, 129, 139-140, 143, 145-146, 149, 151-152 and 155 are generic to a plurality of disclosed

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patentably distinct species comprising nucleic acid sequences which encode an amino acid sequence tag that is capable of post-translational modification.

Therefore, election is required of one of inventions Groups I-III and one of inventions (a)-(d) below, regarding a patently distinct amino acid sequence tag species that is capable of post-translational modification by, specifically:

- a) biotinylation,
- b) attachment of 4-phosphopanthetheine,
- c) attachment of lipoic acid, or
- d) attachment of flavins.

In the instant case, each amino acid sequence tag capable of post-translational modification is not disclosed as capable of use together and leads to different functions and effects. Furthermore, each amino acid sequence is structurally distinct and unrelated to the others, as described above. Because these inventions are inherently distinct for reasons given above, and because a search of one does not necessarily overlap with that of another, it would be unduly burdensome for the examiner to search and examine all the subject matter being sought in the presently pending claims and thus, restriction for examination purposes as indicated.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Failure to elect species consonant with Applicant's elected invention may result in a notice of non-responsive amendment.

Should applicant elect any of Inventions I-III, a species restriction is required under 35 U.S.C. 121. Claims 1, 3, 6-10, 12, 19-20, 22-25, 27, 39, 41, 44-48, 50, 60-61, 63-66, 68, 80, 82-83, 86-91, 93, 104-105, 107-110, 112, 129, 136-156 are generic to a plurality of disclosed patentably distinct species, wherein the amino acid sequence tag that is capable of biotinylation is, specifically:

- a) all or a portion of the *Klebsiella pneumoniae* oxalacetate decarboxylase α subunit,

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- b) all or a portion of the *Propionibacterium shermanii* transcarboxylase 1.3S subunit, or
- c) all or a portion of the *Escherichia coli biotin* carboxyl carrier protein component of acetyl-CoA carboxylase.

In the instant case, each species is a distinct invention, since they are not disclosed as capable of use together. Furthermore, each amino acid sequence tag is possesses a distinct and unrelated structure, as described above. Because these inventions are inherently distinct for reasons given above, and because a search of one does not necessarily overlap with that of another, it would be unduly burdensome for the examiner to search and examine all the subject matter being sought in the presently pending claims and thus, restriction for examination purposes as indicated.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Failure to elect species consonant with Applicant's elected invention may result in a notice of non-responsive amendment.

Should applicant elect Invention II, a species restriction is required. Claims 19, 29-33, 36, 60, 70-74, 104, 115-119 are generic to a plurality of disclosed patentably distinct species comprising the structure of the first nucleic acid molecule, specifically:

- a) circular,
- b) linear,
- c) linear-blunt ended, or
- d) PCR product.

Each species is distinct because the nucleic acids are mutually exclusive, are not obvious variants, and can have a materially different design, mode of operation, function, or effect. Applicants are reminded that nucleic acid sequences are structurally distinct chemical compounds and are unrelated to one another, as described above.

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Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Failure to elect species consonant with Applicant's elected invention may result in a notice of non-responsive amendment.

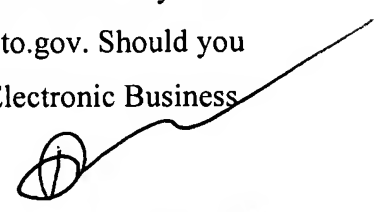
Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin K. Hill, Ph.D. whose telephone number is 571-272-8036. The examiner can normally be reached on Monday through Friday, between 9:00am-6:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave T. Nguyen can be reached on 571-272-0731. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DAVE TRONG NGUYEN
SUPERVISORY PATENT EXAMINER